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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,702	11/18/2003	Mark Magda	0237.036	5405
23405	7590	09/30/2005	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI PC 5 COLUMBIA CIRCLE ALBANY, NY 12203			PRICE, CRAIG JAMES	
			ART UNIT	PAPER NUMBER
			3753	
DATE MAILED: 09/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

JP

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/715,702	MAGDA, MARK	
	<b>Examiner</b>	<b>Art Unit</b>	
	Craig Price	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/18/2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11 and 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br/> Paper No(s)/Mail Date <u>11/18/2003</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/> Paper No(s)/Mail Date. _____</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p> |
|--|---|

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Species A, as defined in Figures 1-4, listing claims 1-4, 6-11, 13 and 14 are readable on elected species in the reply filed on September 7, 2005 is acknowledged. Since applicant has failed to provide any arguments for the election with traverse, the election has been treated and made FINAL. Further, claims 15-18 have been added to the elected invention, because claims 15-18 were inadvertently omitted in the restriction.
2. Claims 5 and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on September 7, 2005.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the outer peripheral surface, 180 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be

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removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

I –As to claim 18, lines 1-3, it is unclear by what is meant by the claimed limitation," the section defining the flow path with the inner surface of the flange is at a smaller radial distance from the longitudinal axis of the poppet valve than the second section". Further, it is unclear as to how the "flange is at a smaller radial distance from the longitudinal axis of the poppet valve than the second section".

Please clarify.

***Claim Rejections - 35 USC § 102***

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 – 4, 6-11, 13 -18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wynn (US 4,129,145).

Regarding claims 1,8 and 15, Wynn discloses a check valve (col. 1, ll. 35-37), the check valve comprises of a body (10) configured to permit fluid to flow through the body, and includes a flange (14) extending circumferentially around an inner periphery of the body, the flange having an inner surface defining a valve aperture (smallest inside diameter of 10,near valve seat 14), and a poppet valve (28) moveably mounted within the valve aperture, the poppet valve including a longitudinal axis, a head (28), and a plurality of guide legs (31,32) extending from the head and through the valve aperture, each of the plurality of guide legs (31,32) including an outer peripheral surface facing the inner surface of the flange, the outer peripheral surface including a first section (smaller portion of 24) and a second section (22,30), wherein the second section is recessed back from the first section in relation to the inner surface of the flange, as shown in figure 3.

Regarding claims 2 and 9, Wynn shows the second section of the outer peripheral surface (22,30) is spaced at a greater distance along the longitudinal axis away from the head than the first section (smaller portion of 24) of the outer peripheral surface, as seen in Figure 3.

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Regarding claims 3 and 10, Wynn shows outer edges of the first and second sections of the outer peripheral surfaces are rounded, as seen in Figure 3.

Regarding claims 4 and 11, Wynn depicts the second section of the outer peripheral surface forms a flow path with the inner surface of the flange to permit debris to pass between the second section and the inner surface of the flange while the valve is in an open position, as shown in Figure 1A.

Regarding claims 6 and 13, Wynn shows the first section is in close proximity to the inner surface of the flange (smallest inside diameter of 10, near valve seat 14) to aid in guiding the poppet valve in the valve aperture during operation, as seen in Figures 1B and 1C.

Regarding claims 7 and 14, Wynn depicts the first section includes a diameter (outside diameter of the smaller portion of 24) formed on an arc of a circle having a diameter slightly less than a diameter of the valve aperture, as shown in Figures 1B and 1C.

Regarding claim 16, Wynn shows the flow path is defined longitudinally along the guide legs at a distance from the head of the poppet valve, as seen in Figure 1A.

Regarding claim 17, Wynn shows a second section of the outer peripheral surfaces of the guide legs (34) is in close proximity to the inner surface of the flange to aid in guiding the poppet valve during operation, as seen in Figure 1A.

Regarding claim 18, Wynn shows the section defining the flow path with the inner surface of the flange (inside diameter of element 18) is at a smaller radial distance from

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the longitudinal axis of the poppet valve than the second section (along the angular inside diameter of element 16), as seen in Figure 1A.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Portis (US 3,035,604), Bogossian et al. (US 3,351,081), Gerdes (US 4,056,121), Mackal et al. (US 4,305,425), Mackal (US 5,135,025), and Wass et al. (US 5,971,016) show similar types of check valves.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig Price whose telephone number is (571) 272-2712. The examiner can normally be reached on 8AM - 5PM M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Nicolas can be reached on (571) 272-4931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 28, 2005

Craig Price  
Examiner



Frederick Nicolas  
Primary Examiner

  
9/28/05